IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA BRUNSWICK DIVISION

TENNYSON HARRIS,

Petitioner,

vs. : CIVIL ACTION NO.: CV214-086

SUZANNE HASTINGS, Warden,

Respondent.

ORDER

After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Petitioner Tennyson Harris ("Harris") filed Objections. Respondent filed a Response to Harris' Objections. Harris filed a Reply. In his Objections, Harris contends that the Respondent took a different position than the Solicitor General of the United States has taken in <u>Persaud v. United States</u>, ____ U.S. ____, 134 S. Ct. 1023 (Jan. 27, 2014) (granting petition for writ of certiorari, reversing the judgment of the Fourth Circuit Court of Appeals, and remanding to the Fourth Circuit for further consideration in light of the Solicitor General's position). The Fourth Circuit has remanded this case to the Western District of North Carolina, and that court has yet to rule on the merits of the government's position. (Case No. 3:12CV509) (W.D. N.C.). In addition, even if the government's position that Persaud is entitled to proceed with his 28 U.S.C. § 2241

petition because he satisfies the savings clause of 28 U.S.C. § 2255(e) is adopted in the North Carolina court, <u>Persaud</u> is applicable to cases arising from the Fourth Circuit. Based on binding Eleventh Circuit Court of Appeals' decisions, Harris is not entitled to his requested relief at this time because he has failed to satisfy § 2255(e).

The Magistrate Judge's Report and Recommendation, as supplemented herein, is adopted as the opinion of the Court. Respondent's Motion to Dismiss is **GRANTED**. Harris' petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 24 day of Ochher

. 2014

LISA GODBEY WOOD, CHIEF JUDGE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF GEORGIA